

REMARKS

This Amendment is in response to the Office Action mailed on December 2, 2003. A Petition for One Month Extension of Time and a check for the requisite fee are submitted herewith. In the event any additional fees are necessary, kindly charge the cost thereof to our Deposit Account No. 13-2855. It is noted that in a telephone conference with the Examiner on December 22, 2003, the Examiner confirmed that the cover sheet to the December 2, 2003 Office Action should have indicated that the drawings submitted on October 22, 2001 are accepted.

35 U.S.C. § 112 Rejections

Claims 1-7, 9-11, 13-19 and 21-22 have been rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. According to the Office Action, it is unclear from the language of claims 1 and 10 how adjusting the speed and distance of the two conveyor belts allows for the sausages to be made in a specific shape and length. Claims 1 and 10 have now been amended to recite -- wherein by adjusting the removal rate of the length-dimensioning unit during sausage stuffing, relative to the stuffing material ejection rate, the length of the individual sausages can be determined --.

By reciting the conveyor belts in claims 1 and 10, the length-dimensioning unit is clearly differentiated from the brake mechanism of Evans. The manner in which such a length-dimensioning unit works is described on page 1 of the Specification. With the amendments to claims 1 and 10, it is respectfully submitted that the Applicants have clarified that by adjusting the removal rate of the length-dimensioning unit during sausage stuffing, relative to the stuffing material ejection rate, the length of the individual sausages can be determined. This is supported, for example at page 1, fourth paragraph of the Specification, and these amendments do not add any new matter.

As discussed in the introductory portion of the Applicants' Specification, it is already known to use a clipper directly after the filling horn (charging pipe) as suggested in Evans, but there has been a problem that the volume and the outer contour of the individual sausages can be reproduced only to an insufficient extent, especially if a natural sausage casing is used as a sausage skin. In cases where natural sausage casing is used as a sausage skin, neither the wall thickness nor the diameter is consistent, which leads to production of non-uniform sausage shapes. Due to the clipper being provided after the filling horn, the stuffing material is additionally displaced when clips are being applied. This leads to deformation and bursting at the sausage ends.

Claims 1 and 10, and thus the claims depending therefrom, clearly instruct a person ordinarily skilled how to provide a device and method for producing sausages which can be used for closing the sausages in a simple manner, and which are suitable for producing sausages having identical length and identical volume, even where the sausage skin consists of a natural sausage casing. Since the filled skins are first transported by a length-dimensioning unit and are therefore brought into a specific shape and length (via the endless conveyor belts), the filled skins can be very precisely divided into individual sausages by the clip module, where all the sausages advantageously have the same shape and volume, even if a natural sausage skin is used. Since the clip module is arranged behind the length-dimensioning unit, the filling, length-dimensioning, and clipping functions may be synchronized in an optimal manner, resulting in uniformity of sausage shapes. In short, by synchronizing the function of the stuffing unit, the clip module, and the length-dimensioning unit, the sausage shape and length can be determined exactly.

It is respectfully submitted that in view of the amendments to claims 1 and 10, and the foregoing arguments, the rejections under 35 U.S.C. § 112, second paragraph, to claims 1 and 10, and all claims depending therefrom, are overcome.

35 U.S.C. § 103 Rejections

Claims 1-7, 9-11, 13-19 and 21-22 have been rejected under 35 U.S.C. § 103. More specifically, claims 1-5, 10-11, 13, 14, 16, 17, and 19 have been rejected as being allegedly unpatentable over Evans, U.S. Patent No. 4,766,713, in view of Staudenrausch, U.S. Patent No. 5,147,239, or Whittlesey, U.S. Patent No. 5,885,150; claims 6, 7, 9, 18, 21, and 22 were rejected as being allegedly unpatentable over Evans as applied in the Office Action to claims 1, 5, 10, and 17, and further in view of Schliesser et al., U.S. Patent No. 5,699,723; and claim 15 is rejected as being allegedly unpatentable over Evans as modified by Staudenrausch or Whittlesey as applied in the Office Action to claim 14, and further in view of Muller et al., U.S. Patent No. 6,080,054.

With respect to the Evans reference, inasmuch as it discloses providing the clipper after the brake mechanism 26, i.e. directly after the filling horn, the problems with respect to inconsistent, irregular, non-uniform, deformed sausage shapes as experienced with natural sausage casings, are not overcome.

The Staudenrausch reference shows a length-dimensioning unit located directly after the brake mechanism 5, wherein the sausages that enter the length-dimensioning unit are already twisted. By modifying Evans according to Staudenrausch as suggested in the Office Action, a person skilled in the art would be led to arrange the clipper as shown in Evans after the brake mechanism 5 of Staudenrausch to clip the sausages at the twisted locations. Such an arrangement, however, would lead to the same disadvantages of irregular sausage shapes and sausages bursting. The Applicants respectfully submit that combining Evans and Staudenrausch to combine the clipper and the length-dimensioning unit in such a way that the clipper is located behind the length-dimensioning unit appears to amount to impermissible hindsight reasoning.

The Whittlesey reference discloses a product which is supplied to a conveyor assembly after being clipped. Whittlesey describes a conveyor system wherein opposed conveyor belts 24 and 26 compress against the filled, and previously clipped, casing 10 and form that filled casing into a uniform cross-sectional shape. One ordinarily skilled in the art would read Whittlesey as teaching away from the Applicants' claims, in that Whittlesey teaches to first clip the sausage and then lead it to a conveyor assembly. This is contrary to the Applicants' claims, wherein the length-dimensioning unit is specifically arranged to operate so as to form uniform lengths of sausages *before* the clip module. Moreover, Whittlesey does not give any indication or suggestion that there is provided a length-dimensioning unit wherein a control means is provided to synchronize the stuffing unit, the clip module, and the length-dimensioning unit. Nor would there be a reason for Whittlesey to have such a teaching, or suggestion, inasmuch as in Whittlesey, the sausages already have their predetermined irregular shape and their specific length by the time they reach the opposed conveyor belts because they have been previously clipped.

Thus, none of the references relied upon in the Office Action, alone or in combination, teach or suggest to a person of ordinary skill in the art to provide a clipper behind a length-dimensioning unit and to provide a respective synchronization, as recited in Applicants' claims 1 and 10, to ensure that the sausages all have uniform shape and volume, even where natural sausage casings are used as the sausage skin. By adjusting the removal rate of the length-dimensioning unit during sausage stuffing relative to the stuffing material ejection rate, the length of the individual sausages can be controlled and normalized.

As to the Muller reference (assigned to the assignee of the present application), it is respectfully submitted that there has been no *prima facie* showing of a motivation to combine at least three different references together to result in what is claimed in Applicants' claim 15.

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The Applicants respectfully submit that all pending claims of the application are allowable over the cited references, and the Examiner's reconsideration and favorable action are respectfully solicited.

Respectfully submitted,


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